

P. Kristofer Strojnik, SBN 242728
Law Offices of Peter Strojnik
pstrojnik@strojniklaw.com
Esplanade Center III, Suite 700
2415 East Camelback Road
Phoenix, Arizona 85016
602.510.9409 (tel.)

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THERESA BROOKE, a married woman
dealing with her sole and separate claim,

Plaintiff,

vs.

CPLG PROPERTIES LLC, a Delaware
limited liability company dba La Quinta
Inn & Suites by Wyndham Fremont,

Defendant.

Case No:

VERIFIED COMPLAINT

(JURY TRIAL DEMANDED)

Plaintiff Theresa Marie Brooke alleges:

PARTIES

1. Plaintiff Theresa Brooke is a married woman. Plaintiff is legally disabled, and is therefore a member of a protected class under the ADA, 42 U.S.C. § 12102(2), the regulations implementing the ADA set forth at 28 CFR §§ 36.101 et seq., the California Unruh Civil Rights Act. Plaintiff ambulates with the aid of a wheelchair due to the loss of a leg.

2. Defendant, CPLG Properties LLC, owns and/or operates and does business as the hotel La Quinta Inn & Suites by Wyndham Fremont located at 46200 Landing Parkway in Fremont, California. Defendant's hotel is a public accommodation

1 pursuant to 42 U.S.C. § 12181(7)(A), which offers public lodging services. On
2 information and belief, Defendant's hotel was renovated after March 15, 2012.

3 **SUMMARY OF ALLEGATIONS**

4 3. Plaintiff Theresa Brooke brings this action against Defendant, alleging
5 violations of Title III of the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et
6 seq., (the "ADA") and its implementing regulations and the California Unruh Civil
7 Rights Act ("Unruh"), California Civil Code §§51, 52. Specifically, Plaintiff brings this
8 action because Defendant's hotel does not comply with Section 503 of the 2010
9 Standards of Accessible Design; Defendant does not have an access aisle at the hotel
10 passenger loading zone that is compliant with Section 503.

11 **JURISDICTION**

12 4. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §§ 1331 and 42
13 U.S.C. § 12188.

14 5. Plaintiff's claims asserted herein arose in this judicial district and
15 Defendant does substantial business in this judicial district.

16 6. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) and (c)
17 in that this is the judicial district in which a substantial part of the acts and omissions
18 giving rise to the claims occurred.

19 **ALLEGATIONS**

20 7. Plaintiff formerly worked in the hospitality industry and her husband
21 works in the travel industry. She and her husband are avid travelers to California for
22 purposes of leisure travel, court-related hearings, conferences and inspections, and to
23 "test" whether various hotels across the Country comply with disability access laws.
24 She has been to California countless times over the past few years for purposes of
25 checking ADA compliance, leisure travel, and court-related conferences.

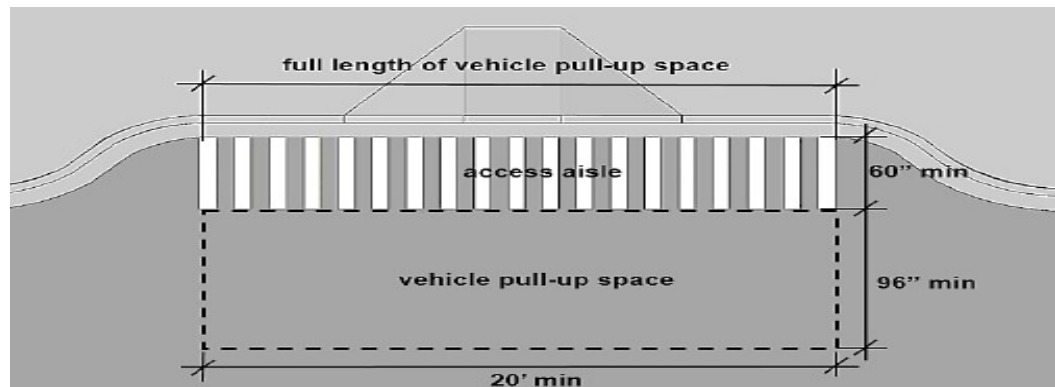
26 8. Plaintiff and her husband traveled to the South Bay and Santa Cruz in late
27 November of this year for purposes of leisure and to test accessibility at local hotels.
28

9. During this trip, Plaintiff personally visited Defendant's hotel and stopped at the passenger loading zone directly adjacent to the lobby. Defendant's hotel has a passenger loading zone because the pickup and dropoff area directly outside of the lobby is designed and intended as a loading zone.

10. While at Defendant's hotel, she discovered that Defendant's hotel has a barrier to entry, which is that the passenger loading zone does not have an access aisle.

11. Plaintiff gained actual and personal knowledge of a barrier while visiting Defendant's hotel, and as a result, she was deterred from entering the hotel. She will not re-visit the hotel until notice is provided of remediation. Returning would be futile, and since she will not return until remediation is provided, a repeat of the injury is not possible.

12. An illustration of a correct access aisle (*the striped portion of the illustration below*) and compliant cut-out are provided below, which was not provided at the hotel:



13. Plaintiff intends on visiting the Bay Area and Santa Cruz again early next year to engage in further ADA testing and for purposes of court-related functions, e.g. hearings, joint site inspections, and the like. This is not a speculative trip; she *will* travel there in either January or February of next year. In the event that notice of remediation of the barrier at bar is provided prior to her trip, she will re-visit the hotel. However, she will not do so if the hotel still has the barrier complained of herein.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 16th day of December, 2020.

A handwritten signature in black ink, appearing to read 'Theresa Marie Brooke', written over a horizontal line.

Theresa Marie Brooke